IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (MAIN) NO. 315 OF 2006

MR. LESTER MELO, CANDOLIM, BARDEZ GOA. ....Appellant

Versus

MS. ARLENE MCJURY AND ANR., ...Respondents

Mr. Mahesh M. Rao, Advocate for the Applicant.

Coram:- N. A. BRITTO, J.

Date:- 1st September, 2006

P.C.:-

Heard Mr. Mahesh M. Rao, the learned Counsel on behalf of the applicant.

The applicant is an accused against whom process has been issued under Sections 403, 405, 415 and 420 I.P.C. by Order dated 16-2-2006 of the learned C.J.M., Panaji. Against the said Order, the applicant has now invoked extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973(Code, for short).

On behalf of the applicant, reliance has been placed on the decisions of the Apex Court in the case of K.M. Mathew v. State of Kerala and another(AIR 1992 SC 2206) and Adalat Prasad v. Pooplal Jindal and others(2004 AIR SCW 5174). It is now well settled that an order issuing process against an accused can be challenged in revision. It is also well settled that the inherent powers of this Court under Section 482 of the Code can be exercised only when there is no other remedy available to a litigant and not where a specific remedy is provided for by the statute. Revisional jurisdiction has been conferred on the Court of Sessions as well as on this Court and as held by this Court in the case of Jeetendra R. Deshprabhu v. Laxmikant Yeshwant Parshekar and others by Order dated 23-12-2004 in Criminal Revision Application No.28 of 2004,

it is the choice of the superior Court whether a revision petition can be entertained by it or not by allowing the party to bye-pass the inferior Court. It has also been held by this Court in the case of Dr. Mohan N. Bhawe v.Travel Force by Order dated 6-4-2005 in Criminal Miscellaneous Application No.52 of 2005 as well as in V. K. Jain and others(2005 Bombay C.R.738) that since a revisional remedy is available, this Court need not exercise its jurisdiction under Section 482 of the Code. The applicant is at liberty to approach the Court of Sessions, in revision against the said Order issusing process against the accused.

With the above observations, the application is disposed of.

N. A. BRITTO, J.

RD.